

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Robinson	Team: Team # 8	CCRB Case #: 200106030	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/03/2001 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 48	18 Mo. SOL 1/3/2003	EO SOL 1/3/2003	
Date/Time CV Reported Tue, 08/07/2001 1:00 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 08/07/2001 1:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Joaquin Morales	08527	921608	48th Pct
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Lisa Bell	10490	887722	48th Pct
2. POM Richard Vetrano	21637	921839	48th Pct
3. SGT Steven Mancini	00167	910659	48th Pct
4. POM John McCullough	31333	889037	ESS04
5. SGT Michael O'Keefe	03159	881267	ESS 03
6. POM Thomas Driscoll	13231	901490	ESS 04
7. POM John Muskus	20235	906905	48th Pct.
8. LT Michael Cody		887177	48th Pct.
9. POM James Hartigan	00461	888818	48th Pct.
10. POM Anthony Digiovanna	14321	906109	48th Pct.
11. POM James Ludvick	05906	896503	ESS 02
12. CPT William Duffy		873557	48th Pct.

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) Apt. § 87(2)(b)	§ 87(2)(b)
B. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
C. Officers	Off. Language: An officer made remarks to § 87(2)(b) based upon race.	§ 87(2)(b)
D. POM Joaquin Morales	Abuse: PO Joaquin Morales threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
E. Officers	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)
F. Officers	Abuse: An officer strip-searched § 87(2)(b)	§ 87(2)(b)

Synopsis

The complainant, § 87(2)(b) filed a complaint with the CCRB in person on 08/07/02. § 87(2)(b)'s complaint involves incidents, which occurred on § 87(2)(b) and 07/03/01. § 87(2)(g) . On 07/03/01, officers with Emergency Services and the 48th Precinct executed a search warrant on the residence of § 87(2)(b) (§ 87(2)(b)'s girlfriend). Both § 87(2)(b) and § 87(2)(b) alleged that officers used physical force against them and called § 87(2)(b) a "nigger." § 87(2)(b) added that PO Morales threatened to throw § 87(2)(b) down the stairs. Finally, § 87(2)(b) alleged that an officer refused to let her use the bathroom, then pulled down her shorts and underwear, causing her to urinate on herself. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b)-old Black male, was interviewed at the CCRB on 08/21/01 (encl. 5A-D). His complaint involves two separate incidents, occurring on § 87(2)(b) and 07/03/01. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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On the morning of § 87(2)(b) § 87(2)(b), § 87(2)(g) individuals banged on his girlfriend's door, identifying themselves as the police, and claiming to have a search warrant. § 87(2)(b) did not immediately open the door, and the officers began hitting it with a sledgehammer. § 87(2)(b)'s girlfriend, § 87(2)(b) did not want the door broken down, so she opened it. Four of five male officers rushed inside and one of them placed one of § 87(2)(b)'s hands in a handcuff and lifted above his head, causing pain to his wrist. The officers said they were looking for an individual named, § 87(2)(b) from Virginia. The officers left the apartment without arresting anyone.

The second incident, 07/03/01, is the main subject of this investigation. On this date, at about 6:00 AM, more than 10 police officers banged on his girlfriend's door, then entered into the bedroom where the couple was sleeping and ordered § 87(2)(b) to place his hands over his head. (**Allegation A**) He asked if they had a warrant and why he was being arrested, and one of the officers replied, "Shut up. Just put your hands behind your head and turn around." § 87(2)(b) complied and the officers had him lie down on the floor in the bedroom. He told his girlfriend, § 87(2)(b) to call 911, but an officer took the phone away from her before she could do so and placed her in the bathroom. Two officers then stood § 87(2)(b) up while others twisted his wrists in the handcuffs and punched him repeatedly in the face and back of the head. (**Allegation B**) § 87(2)(b) stated that his wrists felt like they were being burned with something and he asked the officers what they were burning him with and why they were beating him. An officer told him to shut up, then put his hands around § 87(2)(b)'s throat and choked him. (**Allegation B**) Another of the officers also told him, "Shut up, nigger." (**Allegation C**)

He and § 87(2)(b) were then led downstairs by a Hispanic male. As they were doing so, § 87(2)(b) asked the officer to loosen the handcuffs and the officer pretended to do so, but did not in fact loosen them. This officer also told him, "Get downstairs before I throw you down the stairs." (**Allegation D**) Both individuals were transported to the precinct, where someone treated § 87(2)(b)'s injuries to his wrists. He alleged that the officers called Administration of Child Services and made false claims against the couple, including allegations that § 87(2)(b) had a handgun in their children's room, made the children sleep on the floor, and did not have any food in the refrigerator. However, § 87(2)(b) stated that the officers removed the food from the refrigerator, drank several beers, and flipped his children's bed upside down in order to bolster the claims made to ACS. § 87(2)(b) further stated that the officers removed a sawed-off shotgun from the apartment, which was wrapped in a laundry bag. § 87(2)(b) claimed that he had found the gun in the basement of the apartment building several weeks prior to the arrest and simply had not known what to

do with it. Since the arrest, § 87(2)(b) gets headaches every hour or so and has suffered some short-term memory loss.

§ 87(2)(b) (a.k.a. § 87(2)(b) § 87(2)(b)), a § 87(2)(b)-old Hispanic female, was interviewed on 12/14/01 (encl. 6A-M). § 87(2)(b), § 87(2)(g) While they were sleeping, five or six officers forced their way into her apartment (wearing helmets and carrying shields). § 87(2)(b) rose from the bed and a couple of officers handcuffed him while he was standing up. One of them hit him in the chest with the police shield, then pushed him on the floor between the bed and the wall. (**Allegation B**) Although the bed blocked § 87(2)(b)'s view of her boyfriend, she could see an officer standing on his back and another standing on his wrist. She did not see any officers punch him as her view was blocked. § 87(2)(b) reached for her cellular phone and an officer, whom she later identified as PO Morales, told her, "Didn't I tell you don't fucking move?" The officer then pushed her into the hallway, causing her head to strike the wall. (**Allegation E**) PO Morales then placed § 87(2)(b)'s hands behind her back and locked her in the bathroom. She later added that when she reached the bathroom, she was handcuffed, but could not recall at what point PO Morales did so. Once in the bathroom, PO Morales told her that she would not be arrested and left her with another officer (described as a uniformed White male with salt and pepper hair).

While in the bathroom, § 87(2)(b) heard § 87(2)(b) screaming, "What are you burning me with? Why are you hitting me in my head?" She also heard an officer respond, "Shut up, nigger." § 87(2)(b) asked the officer in the bathroom to loosen her handcuffs because one of her hands was turning black, but he refused. She then told him that she had to "pee" and he again refused to remove the handcuffs. Since she was standing next to the toilet, § 87(2)(b) lowered her undergarments and sat down on the toilet to urinate. The officer reached behind her, took hold of the handcuffs, and pulled her up off the toilet, causing her to urinate on herself. He told her that she could not use the toilet, but that she must urinate on herself. The officer then said, "You're not going to get in my car smelling like piss," and he removed her shorts and underwear by pulling them down. (**Allegation F**) He muttered to § 87(2)(b) "I shouldn't even be doing this. It should be a female doing this." § 87(2)(b) screamed, "What are you doing?" She then kicked her undergarments into the bathtub. At this point, a neighbor, § 87(2)(b) came out of her apartment and was told by an officer to "get the fuck back in your apartment." Several minutes later, a Black female officer came into the bathroom and asked where she could get clothes for both § 87(2)(b) and § 87(2)(b) (since he was also barefoot and only wearing his underwear). § 87(2)(b) stated that this was the officer who reported her to ACS. After retrieving clothing for them, the female officer led her downstairs to a police van. § 87(2)(b) had already been transported away from the scene and both individuals were eventually placed in the same holding cell at the precinct. § 87(2)(b) saw that § 87(2)(b)'s lips were bleeding, half his face was swollen, he was limping, and his wrists were swollen. He did not request medical attention; however, after they were transported to Central Booking, an officer offered to take him to the hospital.

§ 87(2)(b) could not describe any of the uniformed officers who first entered the apartment, because they were wearing helmets. She stated that the damage done to her apartment included the following: her children's bed frames and headboards were broken, the mattresses and box springs were sliced open, the baby's dresser and their dresser drawers were broken, a hole was kicked in the netting of the playpen, the door of her china cabinet was broken, there were holes in the hallway floor, and a hole in the wall by the kitchen. The building superintendent fixed most of the apartment damage.

§ 87(2)(b) was interviewed a second time on 02/15/02. She was shown a series of photos with officers known to be present on 07/03/01 during the execution of a search warrant on her residence, including: PO James Hartigan, Sgt. Steven Mancini, PO John Muskus, Lt. Cody Michael, PO Michael Digivanna, PO Richard Vetrano, and PO Joaquin Morales. § 87(2)(b) did not recognize any of the officers in the photos, stating that the officer who was in the bathroom with her was much older and had salt and pepper colored hair.

Results of Investigation

Civilian Statements

§ 87(2)(b) § 87(2)(b) § 87(2)(b)
§ 87(2)(b) lives at § 87(2)(b) Apt. § 87(2)(b) and is § 87(2)(b)'s neighbor. She was interviewed by Internal Affairs investigator, Det. David Obrenski, on 11/30/01 (encl. 7A-C). § 87(2)(b) claimed that the first incident occurred on § 87(2)(b) § 87(2)(b), § 87(2)(g)

On this date, four White males in street clothing banged on § 87(2)(b)'s door. After demanding to see a search warrant, § 87(2)(b) opened the door. § 87(2)(b) was removed from the scene in handcuffs screaming that they were making a mistake and that the handcuffs were too tight. When she saw § 87(2)(b) later in the day, he had bruises on his hands that she had not noticed before that morning.

With regard to the incident on 07/03/01, § 87(2)(b) heard someone say that they were the police and saw approximately three officers in helmets and shields open the door. There were also two plainclothes officers wearing bulletproof vests standing in the hallway. These officers later escorted § 87(2)(b)'s children downstairs barefoot and in their underwear. § 87(2)(b) offered to take the children, but was initially refused. She also heard the police call § 87(2)(b) a "nigger" and when asked which officer said this, she replied, "all of them." § 87(2)(b) was taken from the scene in handcuffs, complaining about the handcuffs. § 87(2)(b) was in the apartment bathroom screaming, "He's touching me. He's taking my clothes off," and calling for § 87(2)(b). § 87(2)(b) requested a cigarette and the male in the bathroom with her (described as a White male, 40-50 years of age, with salt and pepper hair) opened the door and allowed § 87(2)(b) to give her a cigarette. § 87(2)(b) saw that § 87(2)(b) was handcuffed and wearing a T-shirt and boxers, which was soaked with urine. § 87(2)(b) told her that the male officer would not allow her to use the bathroom and said that she had to pee on herself.

The children were eventually given to § 87(2)(b). Chronologically, § 87(2)(b) clarified that the children were given to her, then § 87(2)(b) was removed, and then § 87(2)(b) was taken from the location about 1½ hours after the initial entry. She did not see any officers remove any property from the apartment. § 87(2)(b) returned later that night and had § 87(2)(b)'s husband kick the door in for her. In the apartment, the mattresses were all overturned and clothing was strewn about. There was also a quantity of meat that had been thrown in the garbage (e.g. ox tails, chicken breasts, pork cutlets, etc.). § 87(2)(b) noted, however, that § 87(2)(b)'s apartment is usually in disarray with beer bottles and empty cans lying about. She further stated that, when § 87(2)(b)'s sister came to retrieve the children, the superintendent opened the door so that she could retrieve clothing and other supplies for the children.

§ 87(2)(b) "§ 87(2)(b) § 87(2)(b) was interviewed at her residence by CCRB investigators on 01/17/02 with regard to the incident on 07/03/01 (encl. 8A-B). § 87(2)(g)

§ 87(2)(b) She did not claim in her second statement to have heard an officer call § 87(2)(b) a "nigger."

Officer Statements

PO John McCullough

PO McCullough was interviewed on 01/17/02 (encl. 9A-E). On the date in question, he was assigned to ESU 4. He and his team were requested by PO Morales to execute a search warrant at § 87(2)(b). At the location, PO Morales indicated which apartment was to be searched. PO McCullough was the lead officer in the entry and he carried a bunker with one hand and his firearm in the other. After the door was opened, he entered first and found § 87(2)(b) and § 87(2)(b) in one of the bedrooms. He did not recall if § 87(2)(b) was standing or not. PO McCullough approached § 87(2)(b) and told him to put his hands up. § 87(2)(b) asked what was going on and the officer stated that they had a search warrant. PO McCullough denied making any contact with § 87(2)(b) with the bunker and stated that to do so would have been tactically unsound, as an individual could then grab the shield. PO McCullough then stepped aside and stood in the doorway while two other officers entered and handcuffed § 87(2)(b). At one point, the officer saw him lying on the ground but did not see how he got there. He denied that he or any officer

punched, choked or stood on § 87(2)(b) He also denied that he or anyone else called him a “nigger” or told him to “shut the fuck up.”

At some point, officers also handcuffed § 87(2)(b) which caused § 87(2)(b) to become irate and attempt to exit the bedroom. Officers had to physically restrain him. They held him against the floor by the shoulders, bending him over. PO McCullough could not see him after this point because the bed blocked his view. § 87(2)(b) was led out of the room and allowed to sit in the other bedroom with her children. § 87(2)(b) continually yelled for § 87(2)(b) to make a phone call, but PO McCullough stated that they would not allow her to do so at that time. After conducting a secondary search of the apartment, the ESU sergeant told them to move out while officers from the 48th Precinct entered. PO McCullough further denied that § 87(2)(b) was burned with anything or ever complained of such. He heard § 87(2)(b) complaining about his handcuffs being too tight, but did not know if anyone loosened them. When they left, § 87(2)(b) was still in the children’s bedroom with the children. He did not know which officer remained to safeguard her.

PO Thomas Driscoll

PO Thomas Driscoll was interviewed on 02/11/02 (encl. 10A-B). He is assigned to ESU 2. He was assigned to the entry tools and handcuffs in the execution of this search warrant. PO Driscoll entered the apartment after the rest of the ESU team and observed a female sitting on the bed (unhandcuffed) and a male who was handcuffed and standing next to the bed (both later identified as § 87(2)(b) and § 87(2)(b)). He did not recall which officers were already in the room. PO Driscoll told the officers, “I got them” and they left while he attempted to take custody of the prisoners. § 87(2)(b) became “out of control” and yelled for § 87(2)(b) to pick up the cellular phone and make a call. The officers told her to leave the phone alone and PO Ludvick handcuffed § 87(2)(b) while § 87(2)(b) began moving around in the bedroom, swearing at the officers. PO Driscoll used his leg to trip him, causing § 87(2)(b) to fall between the bed and the window, and both PO Driscoll and PO Ludvick held him down. PO Driscoll articulated that there was a window and not much maneuvering room in the bedroom, and that § 87(2)(b) was placed on the floor so that he did not push an officer or himself out of that window. He was a “big man” so it took both officers to hold him down. A couple of ESU officers reentered the room at that time to make sure that everything was secure. One of them held § 87(2)(b)’s legs down because he was also kicking at the officers. § 87(2)(b) then began to calm down and stopped struggling. Someone went into the hallway and told the detectives that the apartment was secure and the ESU team left the scene as other officers entered and took custody of the two prisoners. PO Driscoll did not know the officers from the 48th Precinct and did not see what happened after that point.

PO Driscoll could not recall the details of the encounter and a visual inspection of the floor plan (prepared by 48th Precinct officers) did not aid his memory. He did not see any children in the apartment. He did not see § 87(2)(b) enter the bathroom and denied that he or any officer called § 87(2)(b) a “nigger,” told him to “shut the fuck up,” punched, or choked him.

PO James Ludvick

PO Ludvick was interviewed on 02/11/02 (encl. 11A-B). He is assigned to ESU 2 and was listed on the Tactical Plan as being responsible for “entry tools” in this search warrant execution. He did not recall the events of 07/03/02. His memo book was not available as it was in a vehicle that was destroyed at the World Trade Center on 09/11/01. After viewing the ESU Tactical Plan, he did not recall the incident and subsequently denied all allegations. The officer also added that, as a Black individual, he would have been highly offended if one of his fellow officers had used the term.

PO Joaquin Morales

PO Morales was interviewed on 01/29/02 (encl. 12A-G). He and his partner, PO Vetrano, are assigned to the 48th Precinct. On 07/03/01, these officers, as well as numerous others from his command and Emergency Services executed a search warrant at § 87(2)(b) Apt. § 87(2)(b). He waited outside while ESU secured the premises, then officers from the 48th Precinct entered the apartment. One ESU officer had § 87(2)(b) in handcuffs, standing by the bed. The officer placed § 87(2)(b) in the custody of PO Morales and mentioned that he had resisted arrest. PO Morales did not observe any injuries on the complainant, who was screaming and yelling (although the officer could not recall specifically what he was

saying), and did not see any officer punch or choke him. § 87(2)(b) was handcuffed in the bathroom. PO Morales could not recall whether or not there was an officer in the bathroom with her. However, he did not enter the bathroom or have any conversation with her. PO Morales also did not know of any officers with “salt and pepper” hair (he has brown hair). He attempted to lead § 87(2)(b) downstairs; however, § 87(2)(b) attempted to resist by “tightening up” his muscles and planting his feet on the ground. PO Morales pushed and pulled him down the stairs by his forearms, although § 87(2)(b) eventually walked on his own and was not dragged. § 87(2)(b) also requested that the officer remove his handcuffs and PO Morales refused to do so. The officer denied threatening to push § 87(2)(b) down the stairs or that he or any other officer called him a “nigger.”

PO Morales did not recall § 87(2)(b) requesting to go to the bathroom, what she was wearing, or if she urinated on herself. At the precinct, § 87(2)(b) continued to ask that the handcuffs be removed. PO Morales did not observe any injuries on him and he did not complain of such. The officer recalled issuing § 87(2)(b) a summons for shooting dice on the street sometime prior to the execution of this warrant but denied having any previous contact with § 87(2)(b). One of the officers from his command called ACS, although he could not recall which officer did so. As the arresting officer, PO Morales charged § 87(2)(b) § 87(2)(a) 160.50. He only charged § 87(2)(b) § 87(2)(a) 160.50. PO Morales also searched § 87(2)(b) at the precinct and found contraband on his immediate person.

PO Lisa Bell

PO Bell was interviewed on 01/17/02 (encl. 15A-E). She is assigned to the 48th Precinct and waited outside while the ESU officers secured the apartment. Sgt. Mancini called her upstairs to secure a female prisoner, identified as § 87(2)(b) after the ESU officers left the scene. When PO Bell entered the apartment, § 87(2)(b) was alone in the bathroom with the door open. She was handcuffed and sitting on the lid of the toilet, wearing a T-shirt and boxer shorts. § 87(2)(b) asked the officer to send her children to a family friend or relative, but they did not discuss anything else. An officer retrieved a pair of pants and PO Bell assisted § 87(2)(b) in getting dressed. PO Bell did not observe that § 87(2)(b)'s clothes were wet and did not see or smell urine on her clothing. She also did not see any soiled clothing in the bathroom. The officer handed two of the children to a neighbor, then escorted § 87(2)(b) downstairs to the van. At the precinct, she searched § 87(2)(b) and did not find any contraband on her immediate person. PO Bell denied that § 87(2)(b) ever complained about a male officer being in the bathroom with or removing her clothing.

Sgt. Steven Mancini

Sgt. Mancini was interviewed on 01/24/02 (encl. 13A-E). He was the supervisor on the scene for the 48th Precinct officers. He and several other officers waited in the hallway while the ESU team secured the location. After about three minutes, ESU officers came out and said that they could go inside. As he entered, Sgt. Mancini observed § 87(2)(b) handcuffed, being led down the hallway by an ESU officer. She stated that “this had happened before” and had no visible injuries. As she entered the bathroom (the sergeant was about six feet away from her), § 87(2)(b) said that she needed to use the bathroom and asked him to lower or remove her underwear. Sgt. Mancini refused and said that if she had to go to the bathroom, she would have to “do what she had to do.” He continued past her into the bedroom as § 87(2)(b) sat down on the toilet. He never entered the bathroom or had any further conversation with § 87(2)(b). He also did not see any other officer enter the bathroom and denied that any officer on his team had “salt and pepper” hair (Sgt. Mancini’s hair is black). However, Lt. Cody was standing in the doorway to the apartment, which is adjacent to the bathroom doorway.

Sgt. Mancini then walked into the back bedroom where § 87(2)(b) was lying facedown on the floor, being held down by two ESU officers. § 87(2)(b) was spitting, cursing, and kicking his legs. One officer had his knee on § 87(2)(b)'s shoulder with his hands on his back, while the other officer also held him down with his hands. Approximately three officers from the 48th Precinct also entered the room and stood him up. § 87(2)(b) did not violently resist these officers, although he was not fully compliant, continuing to scream and curse at the officers. Sgt. Mancini did not see any injuries on him and he did not complain of any. The sergeant also denied that any officer punch, choke, or stand on § 87(2)(b). Further, neither Sgt. Mancini nor any other officer called him a “nigger” or told him to “shut the fuck up.” The children were placed in

the custody of a neighbor and § 87(2)(b) and § 87(2)(b) were escorted out of the apartment. Sgt. Mancini stayed behind to conduct the search of the apartment and did not have further contact with either complainant.

Lt. Michael Cody

Lt. Cody was interviewed on 02/06/02 (encl. 16A-D). He commanded a group of officers from the 48th Precinct under the supervision of Sgt. Mancini and was the last to enter the apartment after ESU indicated it was secure. Several officers from his command took custody of § 87(2)(b) and § 87(2)(b) who were both handcuffed, although the lieutenant could not recall who led them out of the apartment. Lt. Cody believed that a male officer led § 87(2)(b) out of the apartment, because PO Bell (the team's only female) was dealing with the children. § 87(2)(b) was dressed, although he did not recall what she was wearing. He did not speak with her, but heard her cursing at the officers and asking what was going to happen to her kids. Lt. Cody denied seeing § 87(2)(b) in the bathroom and did not observe any injuries on either individual. He did not hear any officer call § 87(2)(b) a "nigger" or use any other abusive language toward him, and he further did not witness any use of force against either § 87(2)(b) or § 87(2)(b). § 87(2)(b)

Medical Records

§ 87(2)(b) went to § 87(2)(b) on § 87(2)(b). He complained of pain to his wrist and elbow, as well as numbness in his fingers due to being handcuffed. He also informed the physician that the police stood on his elbow and bent his wrist back. No fracture or dislocation was found and he was diagnosed with a soft-tissue injury to his wrist. § 87(2)(b) was prescribed Motrin for pain and given a soft cast for his arm. Also, due to the injury, § 87(2)(b) was unable to sign his Emergency Treatment Consent form. (Encl. 17A-W)

Police Documents

A "no-knock" search warrant was issued on § 87(2)(b) for § 87(2)(b) Apt. § 87(2)(b). The principle subject of the search was "marijuana" and any evidence used the packaging and sale of the drug. The warrant was to be executed between 6:00 AM and 9:00 PM. (Encl. 19A)

The ESU Tactical Plan indicates that PO Morales requested their assistance and PO McCullough was the lead entry officer. The ESU supervisor was Sgt. O'Keefe. Two individuals were placed under arrest, with the male subject needing to be restrained. There were also four children listed as having been in the residence. (Encl. 20A-E)

The arrest photo of § 87(2)(b) shows no injuries to his head or face (encl. 18A).

According to § 87(2)(b)'s On-Line Booking Sheet, "§ 87(2)(a) 160.50

§ 87(2)(b)" (Encl. 21A-B). The arrest report states that § 87(2)(b) was charged § 87(2)(a) 160.50. PO Morales was the arresting officer and it was indicated on the report that no physical force was used and that the officer was in uniform. (Encl. 22A)

The following property was vouchered from a search of the apartment, "one Mossberg 12 gauge black shotgun, 19 shotgun slugs, \$1,219.00 in cash, one sword, one ammo pouch, a green duffle bag, two Motorola two-way radios, and two letters with the name § 87(2)(b) on them addressed to § 87(2)(b) apt. § 87(2)(b) (Encl. 25A-E)

The Command Log indicates that both complainants' physical and mental condition was apparently normal (encl. 27A). § 87(2)(b)'s arrest report indicates that physical force was used in order to restrain and control him (encl. 22A). However, § 87(2)(b)'s arrest report indicates that no force was used against her (encl. 24A).

Disposition of Arrests

Both § 87(2)(b) and § 87(2)(b) were charged § 87(2)(a) 160.50, [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Notices of Claim

§ 87(2)(b) indicated on § 87(2)(b) that he had filed a Notice of Claim, but had not found an attorney to assist him in his civil suit. However, Corporation Counsel could find no record of the civil suit. § 87(2)(b) did file a Notice of Claim on § 87(2)(b) but was rejected because she had exceeded the 90-day statute of limitations for civil suits (encl. 27A).

Victims' Criminal History

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Previous Imposition of Discipline against PO Morales

PO Morales has no substantiated complaints of his CCRB history (encl. 2A).

Conclusions and Recommendations

Officer Identification

The arresting officer on § 87(2)(b)'s arrest report was identified as PO Morales. Upon being interviewed, PO Morales stated that he took custody of § 87(2)(b) and led him down the stairs to the prisoner van. § 87(2)(g) PO Morales also identified other 48th Precinct officers as having been present. § 87(2)(b), § 87(2)(g)

With regard to the allegation that an officer pulled down § 87(2)(b)'s underwear and forced her to urinate on herself, Sgt. Mancini admitted to telling her that he could not remove her handcuffs and that she would have to "do what she had to do." § 87(2)(b), § 87(2)(g)

Indisputable Facts

On 07/03/01, officers from ESU 4 and the 48th Precinct entered and searched § 87(2)(b) Apt. § 87(2) Physical force was used against § 87(2)(b) by numerous officers in order to control and restrain him, resulting in a soft-tissue injury to his wrist. § 87(2)(b) was handcuffed and placed in the bathroom, and the couple's children were given to the custody of their neighbor, § 87(2)(b)

Civilian Credibility

§ 87(2)(b), § 87(2)(g)

First, § 87(2)(b) claimed that an ESU officer hit § 87(2)(b) in the chest with a bunker, then later stood on his wrist and back, which § 87(2)(b) himself did not allege. § 87(2)(b) however, stated that an officer punched him repeatedly, then tried to choke him with both hands. § 87(2)(b) however, did not mention seeing these actions. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) only suffered a soft-tissue injury to his shoulder, § 87(2)(g) The arrest photo also shows no injuries to his head or neck. Third, the complainants filed their complaint more than a month later and § 87(2)(b) tried to file a Notice of Claim against the city, but was rejected because it was filed

nearly four months after the incident occurred. Fourth, § 87(2)(b) claimed to have found the sawed-off shotgun in the building's basement and simply did not know what to do with it. He thus wrapped it in a laundry bag and kept it in § 87(2)(b)'s apartment. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g) She reported that, while in the bathroom, § 87(2)(b) yelled that an officer was taking her clothes off and reported seeing her soaked with urine. § 87(2)(g) § 87(2)(b) claimed that § 87(2)(b) was actually arrested and led out of his apartment in handcuffs during the first incident on § 87(2)(b) § 87(2)(b), § 87(2)(g) Additionally, in her statement to IAB, § 87(2)(b) claimed to have heard an officer call § 87(2)(b) a "nigger." However, she did not mention this in her CCRB statement. § 87(2)(b), § 87(2)(g)

Officer Credibility

§ 87(2)(b), § 87(2)(g)

Allegation A) Officers entered and searched apartment § 87(2)(b) of § 87(2)(b)

On 07/03/01, pursuant to a valid search warrant (encl. 19A), officers from ESU 4 and the 48th Precinct entered and searched § 87(2)(b)'s apartment. The search warrant was issued on § 87(2)(b) and was valid for 10 days. It required that officers execute the warrant between 6:00 AM and 9:00 PM, and investigation revealed that the officers entered the apartment at about 6:00 AM. It also stated that the officers need not give notice of authority or purpose. § 87(2)(g)

Allegation B) Officers used physical force against § 87(2)(b)

§ 87(2)(b) stated that an officer twisted his wrists in the handcuffs, punched him repeatedly in the head and back, and also choked him. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) The officers articulated that he refused to remain still while handcuffed and they feared that he might fall out of the small bedroom's open window or push an officer through it. § 87(2)(b) began kicking at the officers, necessitating another ESU officer (who was unidentified) to hold his legs while he remained on the ground. Other officers also picked him up, § 87(2)(g) § 87(2)(b). Additionally, PO Morales led § 87(2)(b) downstairs to the prisoner van. PO Morales stated that the complainant planted his feet and refused to walk, causing the officer to pull him downstairs by his arm. § 87(2)(g)

New York State Penal Law, Section 35.30 states:

A police officer... in the course of effecting or attempting to effect an arrest, or of preventing or of attempting to prevent the escape from custody, of a person whom he reasonably believes to have committed an offense, may use physical force when and to the extent he reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force...

§ 87(2)(b), § 87(2)(g)

Allegation C) An officer made remarks to § 87(2)(b) based upon race.

§ 87(2)(b) stated that an officer (he was unsure which one) told him to “shut up, nigger.” Both § 87(2)(b) and § 87(2)(b) (in her IAB statement only) reported that they heard an officer use the racially derogatory term. § 87(2)(b), § 87(2)(g)

During his interview, PO Ludvick asserted that he would have been highly offended if one of his fellow officers had used the term “nigger.” § 87(2)(g)

Allegation D) PO Joaquin Morales threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that, as PO Morales was leading him outside, the officer threatened to push him down the stairs. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that § 87(2)(b) was complaining about his handcuffs as the officer was leading him outside but failed to mention PO Morales threatening § 87(2)(b) with the use of force. § 87(2)(g)

Allegation E) An officer used physical force against § 87(2)(b)

§ 87(2)(b) stated that an officer § 87(2)(g) pushed her from the bedroom into the hallway, causing her to strike her head against the wall. However, she did not seek medical treatment and there is nothing to document any possible injury. § 87(2)(b) did not note any injury to § 87(2)(b)'s head and did not mention that she had complained of such. § 87(2)(b), § 87(2)(g)

Allegation F) An officer strip-searched § 87(2)(b)

§ 87(2)(b) alleged that she was led handcuffed to her bathroom and was locked inside with a White male officer, described as having “salt and pepper” hair. She requested from the officer that her handcuffs be removed so that she might use the bathroom and was refused. She then lowered her boxer shorts and underwear and attempted to sit down on the toilet. The officer lifted up on her handcuffs, causing § 87(2)(b) to urinate on herself. The officer stated that he did not want her in his car “smelling like piss,” then proceeded to remove her shorts and underwear. § 87(2)(g)

Sgt. Mancini stated that § 87(2)(b) asked him to remove the handcuffs so that she could use the bathroom and he refused. He then told her that she would have to “do what she had to do.” No other officer admitted to having any conversation with § 87(2)(b) while she was in the bathroom. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: